Sr. No.212

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7467-2018 (O&M)
Date of decision: 13th February 2026

THE NEW INDIA ASSURANCE COMPANY LIMITED .....…Appellant

versus

AVTAR SINGH AND OTHERS .....Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Ms. Radhika Suri, Senior Advocate with
Mr. Neeraj Khanna, Advocate
for the appellant.

None for respondent No.1.

Mr. R.K. Girdhar, Advocate
for respondents No.2 and 3.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Respondent No.1-Avtar Singh/injured was awarded compensation amounting to Rs.21,22,500/- along with interest @ 8% per annum on account of injuries suffered by him in a roadside accident, which took place on 04.03.2015 while he was driving a car make *Mahindra Maximo* bearing Registration No.PB65-L-8221. Initially, he was taken to Civil Hospital, Samrala, from where, he was referred to the PGIMER, Chandigarh.

2. As per the version of the respondent-claimant, both his legs got fractured in the accident, apart from other injuries suffered by him and he was operated upon several times. He cannot walk properly and independently and cannot lift weight. The respondent-claimant was working as a Driver with *Securitrans India Private Limited, Mohali* and was drawing

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a salary of Rs.8,422/- per month besides other perks. The Salary Certificate (Ex.P-43) indicates the salary of the respondent-claimant as Rs.8,422/- per month.

3. The Tribunal considered the age of the injured as 38 years and on the basis of the Disability Certificate, issued by the Senior Medical Officer, Civil Hospital, Ludhiana (Ex.PW-2/A), permanent disability suffered by the injured has been assessed as 30% in view of the fracture in his legs. As such, the Loss of Income was assessed as Rs.30,320/- (30% of Rs.8,422/- X 12). By applying the multiplier method, the Tribunal awarded the following compensation:-

S.No.	Compensation Heads	Amount Awarded
1.	Annual income	Rs.1,06,118/-
2.	Multiplier	15
3.	Loss of Income	Rs.1,06,118/- X 15 = Rs.15,91,770/- (rounded off as Rs.16,00,000/-)
4.	Pain and sufferings	Rs.50,000/-
5.	Medical Expenses (Medical Bills Ex.P-1 to Ex.P-42 and Ex.P-50 to Ex.P-65).	Rs.1,72,500/-
6.	Future Medical Treatment	Rs.3,00,000/-
	Total	**Rs.21,22,500/-**
	Interest	**8% per annum**

4. Learned counsel for the appellant-Insurance Company points out that the calculation made in Paragraph No.23 of the Award is erroneous on the ground that despite considering the Loss of Income as 30% as there is 30% Permanent Disability, however, while making the calculations, the Tribunal has awarded 100% of the annual income i.e. Rs.1,06,118/-, as such, the amount of compensation needs to be reduced.

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5. *Per contra*, learned counsel for the respondents-claimants contends that the functional disability of respondent No.1-Avtar Singh is 100% since both his legs got fractured. Even the compensation under the other heads has not been properly assessed, as such, the present appeal is liable to be dismissed.

6. I have considered the aforesaid contentions and perused the paper book.

7. There is no dispute that there is a calculation error in Paragraph No.23 of the Award passed by the Tribunal. However, the compensation awarded under the head 'Pain and Sufferings' as well as other heads, is inadequate. Even the functional disability of the injured has also not been assessed by the Tribunal, as such, the compensation awarded to the respondents needs to be re-worked.

Functional Disability (Future Loss of Income)

8. It has been noticed that the respondent-claimant was working as a Driver and both his legs got fractured. As per the testimony of PW-2/Dr. Davinder Kumar, Medical Officer, Civil Hospital Ludhiana, the following observations are relevant: -

> *"As per disability certificate, he is 30% permanently disabled due to malunited fracture tibia left and femur right with shortening right lower limb."*

9. In his cross-examination, Dr. Davinder Kumar (PW-2) has stated that corrective surgery can be done at the wish of the respondent-claimant. However, it may be done after removal of implant. He further stated that thereafter, there is possibility of improvement in the condition of

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the respondent-claimant, and for that, re-assessment of his disability is recommended. The statement of the witness was recorded on 03.03.2017.

10. The observations by the Co-ordinate Bench of this Court recorded in the order dated 14.12.2018 are also relevant, which are reproduced as under:-

> *"xxxxxxxx*
>
> *Learned Senior Counsel has argued that the Tribunal erred in taking the disability of the injured as 30% of the whole body because it was not so mentioned in medical certificate and rather during his cross-examination he admitted that his employer had not deducted any amount of salary for the period he could not join. As per the learned Senior Counsel it clearly shows that there was no such notional disability.*
>
> *Notice of motion.*
>
> *Mr. Liaqat Ali, Advocate has entered appearance on behalf of the respondent No.1 and has argued that the claimant has lost his job and can not drive anymore.*
>
> *The claimant is present in person in Court and at least from an appearance it seems that what the counsel for the respondent No.1 is saying is not incorrect.*
>
> *Learned Senior Counsel for the appellant has very fairly stated that this would be a case where the claimant should be subjected to a fresh Medical Board because even in the previous disability certificate there was a recommendation for a subsequent assessment of physical disability. Counsel for the respondent No.1 has also accepted this fact.*
>
> *In the circumstances, the claimant-respondent No.1 is directed to appear before the Civil Surgeon, Ludhiana who will constitute a Medical Board to reassess the physical disability of the respondent No.1 and send its report before the next date of hearing.*
>
> *xxxxxxxx"*

11. As per the order dated 14.12.2018, a fresh report from the Medical Board was called by this Court and as per the order dated 05.02.2020, report dated 22.03.2019, received regarding the disability of respondent No.1, was perused, wherein, it was noticed that the disability is the same i.e. 30% Physical Disability.

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12. The claimant/injured was working as a Driver at the time of accident. As per the medical opinion by PW-2/Dr. Davinder Kumar, there is a fracture in both his legs with shortening of the right lower limb. However, there is possibility of improvement. No suggestion was given by the medical expert (PW-2) that respondent No.1-claimant is unable to drive after the accident. Even no suggestion has been given that he is unable to perform any other work. In view of the facts and circumstances and the nature of injury suffered by respondent No.1-claimant, this Court is of the considered opinion that respondent No.1-claimant shall be able to perform some other work, as such, his Functional Disability is assessed as 60%.

13. **Income**

There is no dispute that the annual income of respondent No.1-claimant at the time of accident was Rs.1,01,064/- and he suffered functional disability to the extent of 60%. As such, the loss of future income can be determined accordingly, after applying future prospects @ 40% and by applying multiplier of 15.

14. **Pain and sufferings**

Keeping in view the nature of injuries suffered by respondent No.1-claimant, he is held entitled to a sum of Rs.3,00,000/- under Pain and Sufferings and Loss of Amenities.

15. The compensation payable, therefore, is re-worked as under:-

S.No.	Compensation Heads	Amount Awarded
1.	Monthly income	Rs.8,422/-
2.	Annual income	Rs.1,01,064/-
3.	Future Prospects (age is 38)	Rs.1,01,064/- + 40% = Rs.1,41,490/-
4.	Multiplier (15)	Rs.1,41,490/- X 15 = Rs.21,22,350/-

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5.	Functional disability	Rs.21,22,350/- X 60% = Rs.12,73,410/-
6.	Loss of future income	**Rs.12,73,410/-**
7.	Pain and sufferings and Loss of Amenities	**Rs.3,00,000/-**
8.	Medical Expenses (Medical Bills Ex.P-1 to Ex.P-42 and Ex.P-50 to Ex.P-65).	**Rs.1,72,500/-**
9.	Future Medical Treatment	**Rs.3,00,000/-**
	Total	**Rs.20,45,910/-**
	Interest	8% per annum

16. In view of the above discussion, the instant appeal is partly allowed and the Award passed by the Tribunal is modified accordingly.

17. Pending miscellaneous application(s), if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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